

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1307

AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 22-3-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) There is hereby created the worker's compensation board of Indiana, which shall consist of seven (7) members, not more than four (4) of whom shall belong to the same political party, appointed by the governor, one (1) of whom ~~he~~ **the governor** shall designate as chairman. The chairman of said board shall be an attorney of recognized qualifications.

(b) Each member of said board shall hold office for four (4) years and until ~~his~~ **the member's** successor is appointed and qualified.

(c) ~~Each~~ **No** member of the board ~~shall devote his entire time to the discharge of the duties of his office and shall not hold any other position of trust or profit or engage in any occupation or business interfering with or inconsistent with the discharge of his the member's duties. as such member.~~

(d) Any member of said board may be removed by the governor at any time for incompetency, neglect of duty, misconduct in office, or other good cause to be stated in writing in the order of removal. In case of a vacancy in the membership of the said board, the governor shall appoint for the unexpired term.

(e) The budget agency, with the approval of the governor, shall approve the salaries of the members of the board and the secretary.

(f) The board may appoint a secretary and may remove such

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secretary. The secretary shall have authority to administer oaths and issue subpoenas in connection with the administration of IC 22-3-2 through IC 22-3-7.

(g) The board, subject to the approval of the governor, may employ and fix the compensations of such clerical and other assistants as it may deem necessary.

(h) The members of the board and its assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board, but such expenses shall be approved by the chairman of the board before payment is made.

(i) All salaries and expenses of the board shall be audited and paid out of the state treasury in the manner prescribed for similar expenses in other departments or branches of the state service.

SECTION 2. IC 22-3-1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) As used in this section, "attorney's fees" means the fees requested for compensation for service provided by an attorney to a claimant under the worker's compensation law and the worker's occupational diseases law as provided under section 3(b)(3) of this chapter.**

(b) As used in this section, "board" refers to the worker's compensation board of Indiana established by section 1 of this chapter.

(c) As used in this section, "claim" refers to a claim for compensation under IC 22-3-2 through IC 22-3-7 filed with the board.

(d) The following schedule of attorney's fees applies to an attorney who represents a claimant before the board when the claim for compensation results in a recovery:

- (1) A minimum of two hundred dollars (\$200).**
- (2) Twenty percent (20%) of the first fifty thousand dollars (\$50,000) of recovery.**
- (3) Fifteen percent (15%) of the recovery in excess of fifty thousand dollars (\$50,000).**
- (4) Ten percent (10%) of the value of:**
 - (A) unpaid medical expenses;**
 - (B) out-of-pocket medical expenses; or**
 - (C) future medical expenses.**

(e) The board maintains continuing jurisdiction over all attorney's fees in cases before the board and may order a different attorney's fee or allowance in a particular case.

SECTION 3. IC 22-3-2-2, AS AMENDED BY P.L.201-2005,



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SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Every employer and every employee, except as stated in IC 22-3-2 through IC 22-3-6, shall comply with the provisions of IC 22-3-2 through IC 22-3-6 respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment, and shall be bound thereby.

The burden of proof is on the employee. The proof by the employee of an element of a claim does not create a presumption in favor of the employee with regard to another element of the claim.

(b) IC 22-3-2 through IC 22-3-6 does not apply to railroad employees engaged in train service as:

- (1) engineers;
- (2) firemen;
- (3) conductors;
- (4) brakemen;
- (5) flagmen;
- (6) baggagemen; or
- (7) foremen in charge of yard engines and helpers assigned thereto.

(c) IC 22-3-2 through IC 22-3-6 does not apply to employees of municipal corporations in Indiana who are members of:

- (1) the fire department or police department of any such municipality; and
- (2) a firefighters' pension fund or of a police officers' pension fund.

However, if the common council elects to purchase and procure worker's compensation insurance to insure said employees with respect to medical benefits under IC 22-3-2 through IC 22-3-6, the medical provisions of IC 22-3-2 through IC 22-3-6 apply to members of the fire department or police department of any such municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(d) IC 22-3-2 through IC 22-3-6 do not apply to the following:

- (1) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.
- (2) A nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the

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performance of youth coaching services on a part-time basis.

(e) When any municipal corporation purchases or procures worker's compensation insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund, and pays the premium or premiums for such insurance, the payment of such premiums is a legal and allowable expenditure of funds of any municipal corporation.

(f) Except as provided in subsection (g), where the common council has procured worker's compensation insurance under this section, any member of such fire department or police department employed in the city carrying such worker's compensation insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that such services are provided for in the worker's compensation policy procured by such city, and shall not also recover in addition to that policy for such same benefits provided in IC 36-8-4.

(g) If the medical benefits provided under a worker's compensation policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

(h) The provisions of IC 22-3-2 through IC 22-3-6 apply to:

- (1) members of the Indiana general assembly; and
- (2) field examiners of the state board of accounts.

SECTION 4. IC 22-3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) ~~With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries; a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries; a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries; a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred dollars~~

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(~~\$100~~) average weekly wages, for the periods stated for the injuries. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of his average weekly wages, not to exceed one hundred twenty-five dollars (~~\$125~~) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule **set forth in subsection (d)** occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not to exceed fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the injury.

(b) With respect to injuries in the ~~following~~ schedule **set forth in subsection (d)** occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the injury.

(c) With respect to injuries in the ~~following~~ schedule **set forth in subsection (d)** occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the injury.

(d) With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the injury.

(1) Amputation: For the loss by separation of the thumb, sixty (60) weeks, of the index finger forty (40) weeks, of the second finger thirty-five (35) weeks, of the third or ring finger thirty (30) weeks, of the fourth or little finger twenty (20) weeks, of the hand

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by separation below the elbow joint two hundred (200) weeks, or the arm above the elbow two hundred fifty (250) weeks, of the big toe sixty (60) weeks, of the second toe thirty (30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks, and for loss occurring before April 1, 1959, by separation of the foot below the knee joint one hundred fifty (150) weeks and of the leg above the knee joint two hundred (200) weeks; for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(b) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in lieu of all other compensation on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to April 1, 1955, the employee shall receive in

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lieu of all other compensation on account of the injuries a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1955, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred dollars (\$100) average weekly wages, for the period stated for such injuries respectively. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the injury.

(e) With respect to injuries in the following schedule **set forth in subsection (h)** occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not exceeding fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars (\$125) average weekly wages for the period stated for the injury.

(f) With respect to injuries in the ~~following~~ schedule **set forth in subsection (h)** occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the injury.

(g) With respect to injuries in the ~~following~~ schedule **set forth in subsection (h)** occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred

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eighty-three dollars (\$183) average weekly wages, for the period stated for the injury.

(h) With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the injury.

(1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.

(2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(3) For injuries resulting in total permanent disability, five hundred (500) weeks.

(4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection ~~(a)(3)~~; **(d)(3)**, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection ~~(a)(4)~~; **(d)(4)**, compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not

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exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

~~(c)~~ (i) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, and for the loss by separation of any of the body parts described in subdivision (3), (5), or (8), on or after July 1, 1999, the dollar values per degree applying on the date of the injury as described in subsection ~~(d)~~ (j) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half ($1/2$) of the degrees of permanent impairment for the loss

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of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third ($\frac{1}{3}$) of the finger and compensation shall be paid for one-third ($\frac{1}{3}$) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half ($\frac{1}{2}$) of the finger and compensation shall be paid for one-half ($\frac{1}{2}$) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth ($\frac{1}{10}$) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(10) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(11) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(12) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection ~~(a)(3)~~, **(h)(4)**, the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or

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glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(13) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection ~~(a)(4)~~; **(h)(5)**, compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

~~(d)~~ **(j)** Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection ~~(c)~~ **(i)** and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993,

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and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred

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dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, **and before July 1, 2007**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2007, and before July 1, 2008, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred forty dollars (\$1,340) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred forty-five dollars (\$1,545) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred seventy-five dollars (\$2,475) per degree; for each degree of permanent impairment above fifty (50), three thousand one hundred fifty dollars (\$3,150) per degree.

(10) With respect to injuries occurring on and after July 1, 2008, and before July 1, 2009, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred sixty-five dollars (\$1,365) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred seventy dollars (\$1,570) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand five hundred twenty-five dollars (\$2,525) per degree; for each degree of permanent impairment above fifty (50), three thousand two hundred dollars (\$3,200) per degree.

(11) With respect to injuries occurring on and after July 1, 2009, and before July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred eighty dollars (\$1,380) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35),

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one thousand five hundred eighty-five dollars (\$1,585) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand six hundred dollars (\$2,600) per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred dollars (\$3,300) per degree.

(12) With respect to injuries occurring on and after July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars (\$2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand five hundred dollars (\$3,500) per degree.

~~(e)~~ (k) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections ~~(c)~~ (i) and ~~(d)~~ (j) shall not exceed the following:

- (1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).
- (2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).
- (3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).
- (4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).
- (5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).
- (6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).
- (7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).
- (8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).
- (9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).
- (10) With respect to injuries occurring on or after July 1, 2002, and before July 1, 2006, eight hundred eighty-two dollars (\$882).
- (11) With respect to injuries occurring on or after July 1, 2006, and before July 1, 2007, nine hundred dollars (\$900).

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(12) With respect to injuries occurring on or after July 1, 2007, and before July 1, 2008, nine hundred thirty dollars (\$930).

(11) With respect to injuries occurring on or after July 1, 2008, and before July 1, 2009, nine hundred fifty-four dollars (\$954).

(12) With respect to injuries occurring on or after July 1, 2009, nine hundred seventy-five dollars (\$975).

SECTION 5. IC 22-3-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than ~~October~~ **November 1** in any year to:

- (1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and
- (2) each employer carrying the employer's own risk;

stating that an assessment is necessary. ~~After June 30, 1999,~~ **Not later than January 31 of the following year, each entity identified in subdivisions (1) and (2) shall send to the board a statement of total paid losses and premiums (as defined in subsection (d)(4)) paid by employers during the previous calendar year.** The board may conduct an assessment under this subsection not more than one (1) time annually. ~~Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their~~

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employees under this article and every employer carrying the employer's own risk; shall, within thirty (30) days of the board sending notice under this subsection; pay to the worker's compensation board for the benefit of the fund an assessed amount that **The total amount of the assessment** may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability; temporary partial disability; permanent total impairment; permanent partial impairment; or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. **The board shall assess a penalty in the amount of ten percent (10%) of the amount owed if payment is not made under this section within thirty (30) days from the date set by the board.** If the amount to the credit of the second injury fund on or before ~~October~~ **November 1** of any year exceeds one million dollars (\$1,000,000), **hundred thirty-five percent (135%) of the previous year's disbursements**, the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before ~~October~~ **November 1** of any year the amount to the credit of the fund is less than one million dollars (\$1,000,000), **hundred thirty-five percent (135%) of the previous year's disbursements**, the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.

(d) The board shall assess all employers for the liabilities, including administrative expenses, of the second injury fund. The assessment also must provide for the repayment of all loans made to the second injury fund for the purpose of paying valid claims. The following applies to assessments under this subsection:

- (1) The portion of the total amount that must be collected from self-insured employers equals:**
 - (A) the total amount of the assessment as determined by the board; multiplied by**
 - (B) the quotient of:**
 - (i) the total paid losses on behalf of all self-insured**

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employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(2) The portion of the total amount that must be collected from insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all insured employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(3) The total amount of assessments allocated to insured employers under subdivision (2) must be collected by the insured employers' worker's compensation insurers. The amount of the assessment for each insured employer equals:

(A) the total amount of assessments allocated to insured employers under subdivision (3); multiplied by

(B) the quotient of:

(i) the worker's compensation premiums paid by the insured employer during the preceding calendar year; divided by

(ii) the worker's compensation premiums paid by all insured employers during the preceding calendar year.

(4) For purposes of the computation made under subdivision (3), "premium" means the entire written premium resulting from standard rating procedures and before the application of any of the following:

(A) Rate deviations.

(B) Premium discounts.

(C) Policyholder dividends.

(D) Premium adjustments under a retrospective rating plan.

(E) Premium credits provided under large deductible programs.

(F) Any other premium debits or credits.

(5) The amount of the assessment for each self-insured employer equals:

(A) the total amount of assessments allocated to

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self-insured employers under subdivision (1); multiplied by
(B) the quotient of:

- (i) the paid losses attributable to the self-insured employer during the preceding calendar year; divided by
- (ii) paid losses attributable to all self-insured employers during the preceding calendar year.

An employer that has ceased to be a self-insurer continues to be liable for prorated assessments based on paid losses made by the employer in the preceding calendar year during the period that the employer was self-insured.

~~(d)~~ (e) The board ~~shall~~ may employ a qualified employee or enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than ~~September~~ **December** 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund ~~based on the previous year's claims~~ and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

~~(e)~~ (f) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of insurance producer commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

~~(f)~~ (g) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation ~~and expense of medical examinations or treatment made and~~ ordered by the board and chargeable against the

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fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

~~(g)~~ **(h)** If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

- (1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or
- (2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection ~~(h)~~ **(i)**.

~~(h)~~ **(i)** An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

- (1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and
- (2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

~~(i)~~ **(j)** The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

~~(j)~~ **(k)** All insurance carriers subject to an assessment under this section are required to provide to the board:

- (1) not later than January 31 each calendar year; and
- (2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 6. IC 22-3-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. (a) ~~In computing~~

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the compensation under this law with respect to injuries occurring on and after April 1, 1963; and prior to April 1, 1965, the average weekly wages shall be considered to be not more than seventy dollars (\$70) nor less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965, and prior to April 1, 1967, the average weekly wages shall be considered to be not more than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967, and prior to April 1, 1969, the average weekly wages shall be considered to be not more than eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969, and prior to July 1, 1971, the average weekly wages shall be considered to be not more than ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, the average weekly wages shall be considered to be: (A) Not more than: (1) one hundred dollars (\$100) if no dependents; (2) one hundred five dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110) if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three (3) dependents; (5) one hundred twenty dollars (\$120) if four (4) dependents; and (6) one hundred twenty-five dollars (\$125) if five (5) or more dependents; and (B) Not less than thirty-five dollars (\$35). In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be (A) not more than one hundred thirty-five dollars (\$135); and (B) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall in no case exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability and total permanent disability under this law with respect to injuries occurring on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be (1) not more than one hundred fifty-six dollars (\$156) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1977, and before July 1, 1979, the average weekly wages are

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considered to be (1) not more than one hundred eighty dollars (\$180); and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable may not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1979; and before July 1, 1980; the average weekly wages are considered to be (1) not more than one hundred ninety-five dollars (\$195); and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1980; and before July 1, 1983; the average weekly wages are considered to be (1) not more than two hundred ten dollars (\$210); and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1983; and before July 1, 1984; the average weekly wages are considered to be (1) not more than two hundred thirty-four dollars (\$234) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1984; and before July 1, 1985; the average weekly wages are considered to be (1) not more than two hundred forty-nine dollars (\$249) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

- (1) not more than two hundred sixty-seven dollars (\$267); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect

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to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

- (1) not more than two hundred eighty-five dollars (\$285); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

- (1) not more than three hundred eighty-four dollars (\$384); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

- (1) not more than four hundred eleven dollars (\$411); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

- (1) not more than four hundred forty-one dollars (\$441); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

- (1) not more than four hundred ninety-two dollars (\$492); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

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(1) not more than five hundred forty dollars (\$540); and

(2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars (\$591); and

(2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars (\$642); and

(2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(b) (j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars (\$672); and

(B) not less than seventy-five dollars (\$75);

(2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars (\$702); and

(B) not less than seventy-five dollars (\$75);

(3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars (\$732); and

(B) not less than seventy-five dollars (\$75);

(4) with respect to injuries occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars (\$762); and

(B) not less than seventy-five dollars (\$75);

(5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

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- (A) not more than eight hundred twenty-two dollars (\$822); and
- (B) not less than seventy-five dollars (\$75); ~~and~~
- (6) with respect to injuries occurring on and after July 1, 2002, **and before July 1, 2006:**
 - (A) not more than eight hundred eighty-two dollars (\$882); and
 - (B) not less than seventy-five dollars (\$75);
- (7) with respect to injuries occurring on and after July 1, 2006, and before July 1, 2007:
 - (A) not more than nine hundred dollars (\$900); and
 - (B) not less than seventy-five dollars (\$75);
- (8) with respect to injuries occurring on and after July 1, 2007, and before July 1, 2008:
 - (A) not more than nine hundred thirty dollars (\$930); and
 - (B) not less than seventy-five dollars (\$75);
- (9) with respect to injuries occurring on and after July 1, 2008, and before July 1, 2009:
 - (A) not more than nine hundred fifty-four dollars (\$954); and
 - (B) not less than seventy-five dollars (\$75); and
- (10) with respect to injuries occurring on and after July 1, 2009:
 - (A) not more than nine hundred seventy-five dollars (\$975); and
 - (B) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) For the purpose of this section only and with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, only, the term "dependent" as used in this section shall mean persons defined as presumptive dependents under section 19 of this chapter, except that such dependency shall be determined as of the date of the injury to the employee.

(d) With respect to any injury occurring on and after April 1, 1955, and prior to April 1, 1957, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provisions of this law or under any combination of its provisions shall not exceed twelve thousand five hundred dollars (\$12,500) in any case. With respect to any injury occurring on and after April 1, 1957 and prior to April 1, 1963, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this

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law or under any combination of its provisions shall not exceed fifteen thousand dollars (\$15,000) in any case. With respect to any injury occurring on and after April 1, 1963, and prior to April 1, 1965, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed sixteen thousand five hundred dollars (\$16,500) in any case. With respect to any injury occurring on and after April 1, 1965, and prior to April 1, 1967, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed twenty thousand dollars (\$20,000) in any case. With respect to any injury occurring on and after April 1, 1967, and prior to July 1, 1971, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed twenty-five thousand dollars (\$25,000) in any case. With respect to any injury occurring on and after July 1, 1971, and prior to July 1, 1974, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed thirty thousand dollars (\$30,000) in any case. With respect to any injury occurring on and after July 1, 1974, and before July 1, 1976, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed forty-five thousand dollars (\$45,000) in any case. With respect to an injury occurring on and after July 1, 1976, and before July 1, 1977, the maximum compensation, exclusive of medical benefits, which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed fifty-two thousand dollars (\$52,000) in any case. With respect to any injury occurring on and after July 1, 1977, and before July 1, 1979, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provision of this law or any combination of provisions may not exceed sixty thousand dollars (\$60,000) in any case. With respect to any injury occurring on and after July 1, 1979, and before July 1, 1980, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed sixty-five thousand dollars (\$65,000) in any case. With respect to any injury occurring on and after July 1, 1980, and before July 1, 1983, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed

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seventy thousand dollars (\$70,000) in any case. With respect to any injury occurring on and after July 1, 1983, and before July 1, 1984, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy-eight thousand dollars (\$78,000) in any case. With respect to any injury occurring on and after July 1, 1984, and before July 1, 1985, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-three thousand dollars (\$83,000) in any case.

(k) With respect to any injury occurring on and after July 1, 1985, and before July 1, 1986, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-nine thousand dollars (\$89,000) in any case.

(l) With respect to any injury occurring on and after July 1, 1986, and before July 1, 1988, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed ninety-five thousand dollars (\$95,000) in any case.

(m) With respect to any injury occurring on and after July 1, 1988, and before July 1, 1989, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred twenty-eight thousand dollars (\$128,000) in any case.

(n) With respect to any injury occurring on and after July 1, 1989, and before July 1, 1990, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred thirty-seven thousand dollars (\$137,000) in any case.

(o) With respect to any injury occurring on and after July 1, 1990, and before July 1, 1991, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred forty-seven thousand dollars (\$147,000) in any case.

(p) With respect to any injury occurring on and after July 1, 1991, and before July 1, 1992, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred sixty-four thousand dollars (\$164,000) in any case.

(q) With respect to any injury occurring on and after July 1, 1992, and before July 1, 1993, the maximum compensation, exclusive of

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medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred eighty thousand dollars (\$180,000) in any case.

(r) With respect to any injury occurring on and after July 1, 1993, and before July 1, 1994, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred ninety-seven thousand dollars (\$197,000) in any case.

(s) With respect to any injury occurring on and after July 1, 1994, and before July 1, 1997, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed two hundred fourteen thousand dollars (\$214,000) in any case.

~~(c)~~ (t) The maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provision of this law or any combination of provisions may not exceed the following amounts in any case:

(1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).

(2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).

(3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).

(4) With respect to an injury occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars (\$254,000).

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to an injury occurring on and after July 1, 2002, **and before July 1, 2006**, two hundred ninety-four thousand dollars (\$294,000).

(7) With respect to an injury occurring on and after July 1, 2006, and before July 1, 2007, three hundred thousand dollars (\$300,000).

(8) With respect to an injury occurring on and after July 1, 2007, and before July 1, 2008, three hundred ten thousand dollars (\$310,000).

(9) With respect to an injury occurring on and after July 1,

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2008, and before July 1, 2009, three hundred eighteen thousand dollars (\$318,000).

(10) With respect to an injury occurring on and after July 1, 2009, three hundred twenty-five thousand dollars (\$325,000).

SECTION 7. IC 22-3-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) The power and jurisdiction of the worker's compensation board over each case shall be continuing and from time to time it may, upon its own motion or upon the application of either party, on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

(b) Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder.

(c) The board shall not make any such modification upon its own motion nor shall any application therefor be filed by either party after the expiration of two (2) years from the last day for which compensation was paid. ~~under the original award made either by agreement or upon hearing; except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid.~~ The board may at any time correct any clerical error in any finding or award.

SECTION 8. IC 22-3-7-2, AS AMENDED BY P.L.201-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Every employer and every employee, except as stated in this chapter, shall comply with this chapter, requiring the employer and employee to pay and accept compensation for disablement or death by occupational disease arising out of and in the course of the employment, and shall be bound thereby. **The burden of proof is on the employee. The proof by the employee of an element of a claim does not create a presumption in favor of the employee with regard to another element of the claim.**

(b) This chapter does not apply to the following:

- (1) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.
- (2) A nonprofit corporation that is recognized as tax exempt under

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Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(c) This chapter does not apply to employees of municipal corporations in Indiana who are members of:

- (1) the fire department or police department of any such municipality; and
- (2) a firefighters' pension fund or a police officers' pension fund.

However, if the common council elects to purchase and procure worker's occupational disease insurance to insure said employees with respect to medical benefits under this chapter, the medical provisions apply to members of the fire department or police department of any such municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(d) When any municipal corporation purchases or procures worker's occupational disease insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund and pays the premium or premiums for the insurance, the payment of the premiums is a legal and allowable expenditure of funds of any municipal corporation.

(e) Except as provided in subsection (f), where the common council has procured worker's occupational disease insurance as provided under this section, any member of the fire department or police department employed in the city carrying the worker's occupational disease insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that the services are provided for in the worker's occupational disease policy so procured by the city, and may not also recover in addition to that policy for the same benefits provided in IC 36-8-4.

(f) If the medical benefits provided under a worker's occupational disease policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

(g) Nothing in this section affects the rights and liabilities of employees and employers had by them prior to April 1, 1963, under this chapter.

SECTION 9. IC 22-3-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) Compensation

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shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to work;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination

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under section 20 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; or

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be

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responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1974, and before July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the employee's average weekly wages, up to one hundred thirty-five dollars (\$135) average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(e) For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent

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(60%) of the difference between the employee's average weekly wages and the weekly wages at which the employee is actually employed after the disablement; for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement; for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(f) For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which ~~he~~ **the employee** is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after April 1, 1951, and prior to April 1, 1955, from occupational disease in the following schedule; the employee shall receive in lieu of all other compensation, on account of such disabilities, a weekly compensation of sixty percent (60%) of the employee's average weekly wage; for disabilities occurring on and after April 1, 1955, and prior to July 1, 1971, from occupational disease in the following schedule; the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent

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(60%) of the employee's average weekly wages.

For disabilities occurring on and after July 1, 1971, and before July 1, 1977, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of his average weekly wages not to exceed one hundred dollars (\$100) average weekly wages, for the period stated for such disabilities respectively.

For disabilities occurring on and after July 1, 1977, and before July 1, 1979, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of the occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

(g) For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the following schedule **set forth in subsection (j)**, the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

(h) For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the following schedule **set forth in subsection (j)**, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the disabilities.

(i) For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the following schedule **set forth in subsection (j)**, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the disabilities.

(j) For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding

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seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with

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glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any compensation due for permanent disfigurement.

(k) With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent

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impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection ~~(1)~~ (1) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, ten (10) degrees of permanent

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impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (5), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (6), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

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~~(h)~~ (l) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection ~~(d)~~ (k) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to disablements occurring on and after July 1,

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1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, **and before July 1, 2007**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to disablements occurring on and after July 1, 2007, and before July 1, 2008, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred forty dollars (\$1,340) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35),

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one thousand five hundred forty-five dollars (\$1,545) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred seventy-five dollars (\$2,475) per degree; for each degree of permanent impairment above fifty (50), three thousand one hundred fifty dollars (\$3,150) per degree.

(10) With respect to disablements occurring on and after July 1, 2008, and before July 1, 2009, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred sixty-five dollars (\$1,365) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred seventy dollars (\$1,570) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand five hundred twenty-five dollars (\$2,525) per degree; for each degree of permanent impairment above fifty (50), three thousand two hundred dollars (\$3,200) per degree.

(11) With respect to disablements occurring on and after July 1, 2009, and before July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred eighty dollars (\$1,380) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred eighty-five dollars (\$1,585) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand six hundred dollars (\$2,600) per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred dollars (\$3,300) per degree.

(12) With respect to disablements occurring on and after July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars (\$2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand five hundred dollars (\$3,500) per degree.

(m) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) (k) and (l) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1,

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1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to disablements occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, **and before July 1, 2006**, eight hundred eighty-two dollars (\$882).

(11) **With respect to injuries occurring on or after July 1, 2006, and before July 1, 2007, nine hundred dollars (\$900).**

(12) **With respect to injuries occurring on or after July 1, 2007, and before July 1, 2008, nine hundred thirty dollars (\$930).**

(13) **With respect to injuries occurring on or after July 1, 2008, and before July 1, 2009, nine hundred fifty-four dollars (\$954).**

(14) **With respect to injuries occurring on or after July 1, 2009, nine hundred seventy-five dollars (\$975).**

(j)(n) If any employee, only partially disabled, refuses employment suitable to ~~his~~ **the employee's** capacity procured for ~~him~~, **he the employee, the employee** shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences

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of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

~~(k)~~ **(o)** If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which ~~he~~ **the employee** suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

~~(j)~~ **(p)** If an employee suffers a disablement from **an** occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, ~~he~~ **the employee** shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection ~~(g)(1), (g)(4), (g)(5), (g)(8), or (g)(9);~~ **(k)(1), (k)(4), (k)(5), (k)(8), or (k)(9)**, but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

~~(m)~~ **(q)** If an employee receives a permanent disability from occupational disease such as specified in subsection ~~(g)(1), (g)(4), (g)(5), (g)(8), or (g)(9)~~ **(k)(1), (k)(4), (k)(5), (k)(8), or (k)(9)** after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in

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combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

~~(n)~~ When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and compensation, not exceeding five hundred (500) weeks, shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter. ~~(r)~~ When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

~~(s)~~ ~~(t)~~ Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

~~(p)~~ ~~(t)~~ When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

~~(q)~~ ~~(u)~~ When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars (\$100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

~~(v)~~ Whenever the aggregate payments of compensation, due to any

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person under eighteen (18) years of age, exceed one hundred dollars (\$100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(tr) (w) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(st) (x) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee. himself:

SECTION 10. IC 22-3-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

- (A) not more than one hundred thirty-five dollars (\$135); and
- (B) not less than seventy-five dollars (\$75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

- (A) not more than one hundred fifty-six dollars (\$156); and
- (B) not less than seventy-five dollars (\$75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

- (A) not more than one hundred eighty dollars (\$180); and
- (B) not less than seventy-five dollars (\$75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

- (A) not more than one hundred ninety-five dollars (\$195); and
- (B) not less than seventy-five dollars (\$75);

(5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:

- (A) not more than two hundred ten dollars (\$210); and
- (B) not less than seventy-five dollars (\$75);

(6) on and after July 1, 1983, and before July 1, 1984, the average

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weekly wages are considered to be:

(A) not more than two hundred thirty-four dollars (\$234); and

(B) not less than seventy-five dollars (\$75); and

(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:

(A) not more than two hundred forty-nine dollars (\$249); and

(B) not less than seventy-five dollars (\$75).

(b) (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars (\$267); and

(2) not less than seventy-five dollars (\$75).

(c) (b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars (\$285); and

(2) not less than seventy-five dollars (\$75).

(d) (c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars (\$384); and

(2) not less than seventy-five dollars (\$75).

(e) (d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars (\$411); and

(2) not less than seventy-five dollars (\$75).

(f) (e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars (\$441); and

(2) not less than seventy-five dollars (\$75).

(g) (f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars (\$492); and

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(2) not less than seventy-five dollars (\$75).

~~(f)~~ (g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars (\$540); and

(2) not less than seventy-five dollars (\$75).

~~(f)~~ (h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars (\$591); and

(2) not less than seventy-five dollars (\$75).

~~(f)~~ (i) In computing compensation for temporary total disability, temporary partial disability and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars (\$642); and

(2) not less than seventy-five dollars (\$75).

~~(f)~~ (j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars (\$672); and

(B) not less than seventy-five dollars (\$75);

(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars (\$702); and

(B) not less than seventy-five dollars (\$75);

(3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars (\$732);
and

(B) not less than seventy-five dollars (\$75);

(4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars (\$762); and

(B) not less than seventy-five dollars (\$75);

(5) with respect to disablements occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars (\$822);

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and

(B) not less than seventy-five dollars (\$75); ~~and~~

(6) with respect to disablements occurring on and after July 1, 2002, **and before July 1, 2006:**

(A) not more than eight hundred eighty-two dollars (\$882);
and

(B) not less than seventy-five dollars (\$75);

(7) with respect to disablements occurring on and after July 1, 2006, and before July 1, 2007:

(A) not more than nine hundred dollars (\$900); and

(B) not less than seventy-five dollars (\$75);

(8) with respect to disablements occurring on and after July 1, 2007, and before July 1, 2008:

(A) not more than nine hundred thirty dollars (\$930); and

(B) not less than seventy-five dollars. (\$75);

(9) with respect to disablements occurring on and after July 1, 2008, and before July 1, 2009:

(A) not more than nine hundred fifty-four dollars (\$954);
and

(B) not less than seventy-five dollars. (\$75);

(10) with respect to disablements occurring on and after July 1, 2009:

(A) not more than nine hundred seventy-five dollars (\$975); and

(B) not less than seventy-five dollars. (\$75).

(f) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:

(1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars (\$45,000) in any case;

(2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars (\$52,000) in any case;

(3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars (\$60,000) in any case;

(4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars (\$65,000) in any case;

(5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars (\$70,000) in any case;

(6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars (\$78,000) in any case; and

(7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars (\$83,000) in any case.

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~~(m)~~ **(k)** The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars (\$89,000) in any case.

(l) The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars (\$95,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars (\$128,000) in any case.

(n) The maximum compensation with respect to disability or death occurring on and after July 1, 1989, and before July 1, 1990, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred thirty-seven thousand dollars (\$137,000) in any case.

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred forty-seven thousand dollars (\$147,000) in any case.

(p) The maximum compensation with respect to disability or death occurring on and after July 1, 1991, and before July 1, 1992, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred sixty-four thousand dollars (\$164,000) in any case.

(q) The maximum compensation with respect to disability or death occurring on and after July 1, 1992, and before July 1, 1993, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred eighty thousand dollars (\$180,000) in any case.

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred ninety-seven thousand dollars (\$197,000) in

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any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars (\$214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter may not exceed the following amounts in any case:

- (1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).
- (2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).
- (3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).
- (4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars (\$254,000).
- (5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).
- (6) With respect to disability or death occurring on and after July 1, 2002, **and before July 1, 2006**, two hundred ninety-four thousand dollars (\$294,000).
- (7) With respect to disability or death occurring on and after July 1, 2006, and before July 1, 2007, three hundred thousand dollars (\$300,000).**
- (8) With respect to disability or death occurring on and after July 1, 2007, and before July 1, 2008, three hundred ten thousand dollars (\$310,000).**
- (9) With respect to disability or death occurring on and after July 1, 2008, and before July 1, 2009, three hundred eighteen thousand dollars (\$318,000).**
- (10) With respect to disability or death occurring on or after July 1, 2009, three hundred twenty-five thousand dollars (\$325,000).**

(u) For all disabilities occurring before July 1, 1985, "average

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weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(v) (u) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two

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(52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

~~(w)~~ (v) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars (\$75,000).

SECTION 11. IC 22-3-7-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) If the employer and the employee or the employee's dependents disagree in regard to the compensation payable under this chapter, or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or as to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute. When compensation which is payable in accordance with an award or by agreement approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned.

(b) The application making claim for compensation filed with the worker's compensation board shall state the following:

- (1) The approximate date of the last day of the last exposure and the approximate date of the disablement.
- (2) The general nature and character of the illness or disease claimed.
- (3) The name and address of the employer by whom employed on the last day of the last exposure, and if employed by any other employer after such last exposure and before disablement, the name and address of such other employer or employers.
- (4) In case of death, the date and place of death.
- (5) Amendments to applications making claim for compensation

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which relate to the same disablement or disablement resulting in death originally claimed upon may be allowed by the board in its discretion, and, in the exercise of such discretion, it may, in proper cases, order a trial de novo. Such amendment shall relate back to the date of the filing of the original application so amended.

(c) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the parties, in the manner prescribed by the board, of the time and place of hearing. The hearing of all claims for compensation on account of occupational disease shall be held in the county in which the last exposure occurred or in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(d) The board by any or all of its members shall hear the parties at issue, their representatives, and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent by registered mail to each of the parties in dispute.

(e) If an application for review is made to the board within thirty (30) days from the date of the award made by less than all the members, the full board, if the first hearing was not held before the full board, shall review the evidence, or, if deemed advisable, hear the parties at issue, their representatives, and witnesses as soon as practicable, and shall make an award and file the same with the finding of the facts on which it is based and send a copy thereof to each of the parties in dispute, in like manner as specified in subsection (d).

(f) An award of the board by less than all of the members as provided in this section, if not reviewed as provided in this section, shall be final and conclusive. An award by the full board shall be conclusive and binding unless either party to the dispute, within thirty (30) days after receiving a copy of such award, appeals to the court of appeals under the same terms and conditions as govern appeals in ordinary civil actions. The court of appeals shall have jurisdiction to review all questions of law and of fact. The board, of its own motion, may certify questions of law to the court of appeals for its decision and determination. An assignment of errors that the award of the full board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the award and the sufficiency of the evidence to sustain the finding of facts. All such appeals and certified questions

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of law shall be submitted upon the date filed in the court of appeals, shall be advanced upon the docket of the court, and shall be determined at the earliest practicable date, without any extensions of time for filing briefs. An award of the full board affirmed on appeal, by the employer, shall be increased thereby five percent (5%), and by order of the court may be increased ten percent (10%).

(g) Upon order of the worker's compensation board made after five (5) days notice is given to the opposite party, any party in interest may file in the circuit or superior court of the county in which the disablement occurred a certified copy of the memorandum of agreement, approved by the board, or of an order or decision of the board, or of an award of the full board unappealed from, or of an award of the full board affirmed upon an appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though such judgment has been rendered in a suit duly heard and determined by the court. Any such judgment of such circuit or superior court, unappealed from or affirmed on appeal or modified in obedience to the mandate of the court of appeals, shall be modified to conform to any decision of the **industrial worker's compensation** board ending, diminishing, or increasing any weekly payment under the provisions of subsection (i) upon the presentation to it of a certified copy of such decision.

(h) In all proceedings before the worker's compensation board or in a court under the compensation provisions of this chapter, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court.

(i) The power and jurisdiction of the worker's compensation board over each case shall be continuing, and, from time to time, it may, upon its own motion or upon the application of either party on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in this chapter. When compensation which is payable in accordance with an award or settlement contract approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned. Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder. The board shall not make any such modification upon its own motion, nor shall any application therefor be filed by either party

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after the expiration of two (2) years from the last day for which compensation was paid. ~~under the original award made either by agreement or upon hearing. except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid.~~ The board may at any time correct any clerical error in any finding or award.

(j) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

(k) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that ~~he~~ **the employee** was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

(l) Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or

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filing of a claim under the provisions of this chapter if given or done within the time required in this chapter.

SECTION 12. IC 22-3-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An employee who:

- (1) becomes totally and permanently disabled:
 - (A) on or after July 1, 1985, from an exposure to asbestos in employment before July 1, 1988, **and files a claim for benefits before July 1, 2006;** or
 - (B) before July 1, 1985, from an exposure to asbestos in employment and files a claim under this chapter before July 1, 1990;
- (2) is unable to be self-supporting in any gainful employment because of the disability caused by the exposure to asbestos; and
- (3) is not eligible for benefits under IC 22-3-7;

may be eligible for benefits from the fund if the employee is not entitled to other available benefits from social security, disability retirement, or other retirement benefits or third party settlements equal to or greater than sixty-six and two-thirds percent (66 2/3%) of the average weekly wage, as defined in IC 22-3-7-19, at the date of disablement. An employee's eligibility shall be determined by the board by rule adopted under IC 4-22-2.

(b) If the employee has other available benefits but they are less than sixty-six and two-thirds percent (66 2/3%) of the average weekly wage at **the** date of disablement, the employee is eligible to receive from the fund a weekly benefit amount not to exceed the difference between the other available benefits and sixty-six and two-thirds percent (66 2/3%) of the average weekly wage on the date of disablement for a period not to exceed fifty-two (52) weeks.

(c) If the employee dies before exhausting the remainder of the benefits to which the deceased employee was entitled for the fifty-two (52) week benefit period, the greater of:

- (1) the remainder of the benefits; or
- (2) four thousand dollars (\$4,000);

shall be paid to dependents of the deceased employee as determined under IC 22-3-7-12 through IC 22-3-7-14.

(d) This section expires August 1, 2007.

SECTION 13. IC 22-3-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) **If the board has made an award of additional compensation under this section before July 1, 2006,** an employee who has exhausted the fifty-two (52) week maximum may be awarded additional compensation by the board

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in periods of no more than fifty-two (52) weeks upon determination that the requirements of section 3 of this chapter are still met.

(b) The amount of additional benefits determined for each subsequent award may not exceed the level of the initial determination.

(c) This section expires August 1, 2007.

SECTION 14. IC 22-3-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a)** The board shall adopt rules under IC 4-22-2 for the following:

(1) The initial determination of an employee's eligibility for benefits under section 3 of this chapter.

(2) The determination of an employee's eligibility for additional benefits under section 4 of this chapter.

(b) This section expires August 1, 2007.

SECTION 15. **An emergency is declared for this act.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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HEA 1307 — Concur+

